

REMARKS

The Examiner has alleged that the claims of the instant application are drawn to patentability distinct inventions. Accordingly, the Examiner has required restriction of the instant application under 35 U.S.C. §121 to one of the following claim Groups:

- I. Claims 1 and 5, drawn to an expression vector comprising a recombinant vaccinia virus with a mutation in the E3L gene and an exogenous DNA;
- II. Claims 2 and 6, drawn to an expression vector comprising a recombinant vaccinia virus with a deletion spanning amino acids 1-83 of the E3L gene and an exogenous DNA;
- III. Claims 3 and 7, drawn to an expression vector comprising a recombinant vaccinia virus with a deletion spanning amino acids 1-54 of the E3L gene and an exogenous DNA;
- IV. Claims 4 and 8, drawn to an expression vector comprising a recombinant vaccinia virus with specific amino acids within the E3L gene and an exogenous DNA; and
- V. Claims 9-11, drawn to a method of making a recombinant gene product.

The Examiner has alleged that the vectors of Groups I-III (*sic*, Groups I-IV?) are different because the viruses are structurally different, which would result in different products and effects upon expression. The Examiner has further alleged that Groups I-III and IV (*sic*, probably I-IV and V?) are related as product and process of use. The Examiner has alleged that the process of making a recombinant gene product may be used with different products.

In response, Applicants elect to prosecute the claims of Group III with traverse in the present application and, accordingly, have amended claim 3 to independent form. Claim 9

has been amended to recite "having a deletion of the region encoding amino acids 1-54 of the E3L gene product." Thus, Applicants assert that at least Groups III and V are not sufficiently independent and distinct so as to require restriction in the present case. Applicants, therefore respectfully request that the claims of these be rejoined.

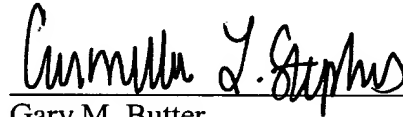
Applicants reserve the right to pursue the subject matter of the non-elected claims in further applications and to traverse the instant grouping of claims on any grounds.

Although Applicants do not believe any fee is presently due, the Commissioner is hereby authorized to deduct any fees required with this submission not otherwise enclosed herewith from Deposit Account No. 02-4377. Two copies of this paper are enclosed.

Respectfully submitted,

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November 3, 2003



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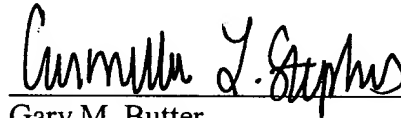
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